

REMARKS

By this paper, Applicant has amended claims 1, 11, 12, 14, 16, 29, 31, 35, 37, 42, 44 and 49. The independent claims are claims 1, 11, 12, 16, and 20. Applicant has not added any claims, nor has applicant cancelled any claims. This amendment contains no new matter. Entry of this amendment is respectfully requested.

Drawings

The Examiner objected to the drawings saying the plurality of unattached plates (claim 20) and the plate being collapsed (claims 14 and 16) must be shown or the features cancelled from the claims.

Applicant has added drawings 11 and 12 to show the claimed features.

Applicant has also amended the previously submitted pages to reflect that there are now 5 pages of drawings.

Specification

The Examiner objected to the specification, saying it did not include antecedent basis for the claimed subject matter in particular, the raised portion collapsing which appears in claims 14 and 16.

Applicants respectfully disagree. Support in the specification for the raised portion collapsing when the stud in the plate is driven is found at page 3, line 4; at page 3, the sixth line from the bottom; page 4, lines 16 – 19; and page 13, line 19.

However; Applicant has also amended the paragraph which begins on page 13 at line 19 with language from US Patent 5,634,756 which was incorporated by reference at page 2, line 6 of the present application. The language taken from US Patent 5,634,756 appears at column 2, line 30 and column 4, line 23.

Claim Rejections – 35 USC §112

The Examiner has objected to claims 14, 16 – 19, 33 and 37 as being indefinite.

Applicant has amended claims 14 and 16 to say that the plate is adapted to be collapsed. Applicant has also changed the order of the elements in claim 16 so that the stud is introduced before it is described as being driven.

Applicant believes that by these amendments, applicant can still speak of the stud being driven without improperly introducing a method step into these claims to an article or creating an antecedent basis problem.

Claims 17 through 19 depend from claim 16 and do not appear to have any problems of indefiniteness identified by the Examiner, except that they depend from claim 16. Applicant believes the Examiner's complaint about claim 17 was actually directed at claim 16.

Claim 33 depends from claim 14 and does not appear to have any problems of indefiniteness identified by the Examiner, except that it depends from claim 14.

Claims 37 and claims 29,31, 35, 42, 44 and 49 have been amended, like claims 14 and 16 to say that the plate is adapted to be collapsed.

Claim Rejections – 35 USC § 102

The examiner has maintained his rejection of most of the independent claims on the basis of Magyar (US Patent 3,828,925), including claims 1, 11, 12, and 16. Specifically, the examiner rejected claims 1,3-5, 8, 9, 10-12, 14, 15, 16, 19 and 29-48 as being anticipated by Magyar.

First, Applicant would like to thank the Examiner for his detailed description of the prior art and the basis for his rejection.

By this paper, Applicant has amended claim 1 to more specifically describe the location and the form of the claimed groove in the plate. The groove is now claimed as being located "in [the] top surface" of the plate and being located "above [the] extending portion. The groove is also described as "extending the length of the bearing surface and the length of said plate without interruption".

No new matter is added by this amendment. Support for this amendment is found in the drawings in Figures 2, 3, 4, 5A, 6, 7, and 8.

Applicant still believes that is unclear just exactly what form the "longitudinal grooves 22" of Magyar take and how long they are. The grooves are described as serving to facilitate disintegration of the strip and are described as being located in the lower surface of the strip, but their shape is not well-described or shown. See column 3, line 5.

Applicant would also like to point out to the Examiner that the embodiments shown in Figures 7 and 8 of Magyar in cross-section are not the same

embodiments shown in Figures 3, 5 and 6, and the grooves 22 do not appear in the embodiments shown in Figure 7 and 8.

Nevertheless, Applicant feels that no matter how one imagines the grooves 22 of Magyar, they are not formed in the top surface of the plate as is now provided in claim 1 ("the lower surface of the strip 2 may be provided with a series of longitudinal grooves 22" – Magyar, Col 3, line 5), and they do not appear to run the length of the strip uninterrupted as is now provided in claim 1. The bosses 16 interrupt the grooves 22 reaching all the way down to the lower surface of the strip. See figures 3, 4, 5 and 6 of Magyar.

Applicant believes claim 1 as amended is allowable over Magyar. Applicant notes that claims 3 – 5, 8, 9, 10, 27, 28, 29, 31 and 32 all depend from claim 1. Applicant believes these claims should now be considered allowable over Magyar.

With respect to independent claim 11 and its dependent claims, Applicant has amended claim 11 to more fully describe the extending portion.

Applicant does not believe that Magyar teaches all of the limitations of claim 11 as currently amended. Applicant has amended claim 11 to say that the "extending portion extends the length of the bearing surface and the length of said plate without interruption" and that the top surface of the plate is provided with one or more grooves.

No new matter is added by this amendment. Support for this amendment is found in the drawings in Figures 2, 3, 4, 5A, 6, 7, and 8.

Applicant believes claim 11 is allowable over Magyar. Applicant notes that claims 14 and claims 33 - 38 all depend from claim 11. Applicant believes these claims are allowable over Magyar as well.

With respect to claim 14, Applicant has amended the claim.

Applicant has amended claim 14 to more specifically describe the raised portion and how it is adapted to collapsed and create a larger bearing surface area for the plate after it has collapsed.

In comparison, the strip and in particular the boss 6 which has an upper portion 18 in Magyar is adapted to be destroyed or disintegrate after the stud is driven downwardly. See Magyar, column 2, line 53 through column 3, line 9.

Support for this amendment is found in US Patent 5,634,756, which is incorporated into the specification by reference, the support being found at column 2, lines 15 and 30, column 3, line 26 and column 4, line 23.

Claims 33, 34, 35, 36, 37 and 38 depend from claim 14. Applicant believes they should now be considered allowable.

With respect to independent claim 12 and its dependent claims, Applicant has amended claim 12 to call for the groove to extend the length of the plate without interruption and to be formed on the top surface of the plate.

Applicant does not believe that Magyar teaches all of the limitations of claim 12 as amended. Support for this amendment is found in the specification at page 8, line 13 and found in the drawings in Figures 2, 3, 4, 5A, 6, 7, and 8.

Applicant believes claim 12 is allowable over Magyar. Applicant notes that claims 15, 25, and 39 - 45 all depend from claim 12. Applicant believes these claims should now be considered allowable over Magyar.

With respect to claim 16 and its dependent claims, Applicant has amended claim 16.

Applicant has amended claim 16 to more specifically describe the raised portion and how it is adapted to collapsed and create a larger bearing surface area for the plate after it has collapsed.

In comparison, the strip and in particular the boss 6 which has an upper portion 18 in Magyar is adapted to be destroyed or disintegrate after the stud is driven downwardly. See Magyar, column 2, line 53 through column 3, line 9.

Support for this amendment is found in US Patent 5,634,756, which is incorporated into the specification by reference, the support being found at column 2, lines 15 and 30, column 3, line 26 and column 4, line 23.

Claims 19, 46, 47 and 48 depend from claim 16. Applicant believes they should now be considered allowable.

The examiner has maintained his rejection of claims 20, 21 and 23 on the basis of Francis (US Patent 4,903,831) under 102(b).

Applicant has not amended claim 20; however, claim 20 calls for a plurality of "unattached" fastener assemblies. Applicant believes that the combination of a plurality of unattached fastener assemblies in a feeding track is unique, and has not

been shown to be anticipated by the Examiner. Especially since the Examiner rejects the same claims under 35 USC §103 and argues that the elements called for in the claim that are missing from Fancis would have been obvious to a person of ordinary skill in the art.

Applicant believes claim 20 as amended is allowable over Francis. Applicant notes that claims 21 and 23 depend from claim 20. Applicant believes these claims should now be considered allowable over Francis.

Claim Rejections – 35 USC § 103

The examiner has rejected claims 20, 21 and 23 under 103(a) as being an obvious modification of Magyar in view of the teachings of the prior art.

In making this rejection, the Examiner notes that Francis at Figure 1 shows a prior art plate and argues that such a plate that could be fitted into the track of Francis, and if combined with similar unattached prior art plates in the track would meet the limitations of claims 20, 21 and 23.

However, to say this would have been obvious to one skill in the art at the time of the invention is problematic, since Francis, at the time of his invention was aware of the prior art, but felt it was necessary to attach the plates. Thus, Francis itself teaches away from the combination suggested by the Examiner and contradicts the Examiner's statement that one of ordinary skill in the art would use unattached fasteners.

Furthermore, the Examiner in making his combination fails to show how one of ordinary skill in the art would take the prior art plate taught in Francis and provide it with a stud that would be held by the prior art plate as claimed. Again, Francis provides his attached plates or ferules with studs, but did not provide unattached plates with studs.

Applicant believes the Examiner has failed to make a *prima facie* case of obviousness, that the evidence of record contradicts the Examiner's argument, and therefore respectfully requests this rejection of claims 21, 21 and 23 be removed.

The examiner has rejected claims 20 – 23 and 49 – 52 under 103(a) as being unpatentable over Magyar in view of Francis.

Applicant respectfully disagrees with the Examiner's obviousness rejection of claim 20 and these dependent claims for the same reason it disagrees with the

Examiner's rejection of claims 20, 21 and 23 in light of Francis in combination with the teachings of the prior art. Claim 20 calls for unattached fasteners, and Applicant believes for the reasons stated above that the Examiner has failed to make a prima facie case of obviousness to meet this limitation of the claim.

Conclusion

In view of the above, Applicants submit that the claims remaining in the application are in condition for allowance and allowance of the claims at an early date is solicited.

Please direct any calls in connection with this application to the undersigned at (510) 832-4111.

Respectfully submitted,



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Attachments: Check no. 12563 for \$1810; Return Receipt Post Card;
RCE Request (2 copies); Petition for Extension (2 copies);
5 Replacement Drawing Sheets